

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:06CV323-03-MU

LESTER HARDY JR.,)
)
Plaintiff,)
)
v.)
)
BOYD BENNETT, et. al,)
)
Defendants.)
)

)

ORDER

THIS MATTER comes before the Court on initial review of Plaintiff's Complaint under 42 U.S.C. § 1983, filed October 2, 2006. (Document No. 1.) Upon careful consideration by the Court, for the reasons set forth herein, the Plaintiff's Complaint will be transferred to the federal District Court for the Eastern District of North Carolina.

According to his Complaint, the Plaintiff is an inmate who is currently confined at the Polk Correctional Institution in Butner, North Carolina. Butner, North Carolina is situated in Granville County. The Defendants listed in this action work and likely reside within the Eastern District of North Carolina.

It is clear from the face of Plaintiff's Complaint that this Court does not have the authority to entertain the merits of Plaintiff's Complaint. Indeed, venue in a civil action based upon a federal question, i.e. alleged violations of an inmate's civil rights is proper in : 1) a judicial district where any defendant resides, if all defendants reside in the same State; 2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or 3) a judicial district in which any defendant

may be found, if there is no district in which the action may otherwise be brought. See 28 U.S.C. § 1391(b).

Here, the Plaintiff's Complaint does not state the address of the defendants; however, the Court has taken judicial notice of the fact that the defendant Boyd Bennett works and likely resides in Raleigh, North Carolina and Defendant Rowland works and likely resides in Butner, North Carolina. Likewise Plaintiff's allegations concern incidents that occurred which Plaintiff was an inmate at Polk Correctional Institution which is located in Butner, North Carolina in Granville County. The Court has taken judicial notice that Raleigh and Butner, North Carolina are situated within the Eastern District of North Carolina. Consequently, because the face of the instant Complaint does not support a finding that the Defendants reside in the Western District of North Carolina, but work and likely reside within the Eastern District of North Carolina and the events about which Plaintiff complains occurred in the Eastern District of North Carolina, the Court will not entertain the merits of Plaintiff's claim and will transfer this Complaint to the Eastern District of North Carolina..

NOW, THEREFORE, IT IS HEREBY ORDERED that the Plaintiff's Complaint is **TRANSFERRED** to the federal District Court for the Eastern District of North Carolina.

SO ORDERED.

Signed: October 11, 2006



Graham C. Mullen
United States District Judge

